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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/765,188 | 01/28/2004 | Michael Roydon Puzey | PUZE3002/FJD | 9844 |

23364 7590 09/07/2004

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EXAMINER

TRAN, DIEM T

ART UNIT PAPER NUMBER

3748

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/765,188 | Applicant(s) PUZEY, MICHAEL ROYDON | |
| | Examiner Diem Tran | Art Unit 3748 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

- On page 3, line 20, "an arrow marked 2" is not shown in Figure 1.
- On page 6, line 8, "first plane 76" is not shown in Figure 2.

Appropriate corrections are required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Waltrip, III (US Patent 5,953,909).

Regarding claim 1, Waltrip,III discloses an expansion pipe for use with an engine which includes an elongate, curved tubular body which has a first open end and a second closed end (not numbered but clearly shown in Figure 9), a first connecting component secured to the first, open end for attaching the body to an exhaust gas pod of the engine, and a second connecting component (18), which defines an outlet from an interior of the body and which is positioned between the first and second ends of the body, whereby a device (60), for treating exhaust gas leaving the body interior, is attachable to the body (see Figure 9).

Regarding claim 2, Waltrip,III discloses a mounting member fixed to the body, between the second connecting component and the first end of the body.

Regarding claim 6, Waltrip,III further discloses that the tubular body has a cross sectional area which increases in size over a region which extends from the second end to a location, between the first end and second end, at which the cross sectional area has a maximum size, and wherein the second connecting component (18) is located in the region (see Figure 9).

Regarding claim 7, Waltrip,III further discloses that the first connecting component is attached to the exhaust port (not numbered but clearly shown in Figure 9), and which includes an exhaust gas treatment device attached to the second connecting component (18) (see Figure 9).

Regarding claim 8, Waltrip,III further discloses that the first connecting component comprises a first flange with at least two mounting holes of a first size which are spaced apart by a first distance, and the exhaust gas treatment device includes a mounting flange with at least two mounting holes of the first size which are spaced apart by the first distance (see Figure 9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waltrip, III (US Patent 5,953,909).

Regarding claims 3, 4, Waltrip, III discloses all the claimed limitations as discussed in claim 1 above, however, fails to disclose the curved tubular body is formed from a first section and a second section which is engaged with the first section, and which is detachable from the first section.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a curved tubular body being formed from a second section being detachable from the first section, since it has been held that interchanging an integral part, for plural parts involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Regarding claim 5, Waltrip, III further discloses that the second section is formed from a first body part with a first curved longitudinally extending axis which lies in a first plane and a second body part with a second curved longitudinally extending axis which lies in a second plane which is angularly displaced relatively to the first plane (see Figure 9).

Conclusion

Any inquiry concerning this communication from the examiner should be directed to Examiner Diem Tran whose telephone number is (703) 308-6073. The examiner can normally be reached on Monday -Friday from 8:00 a.m. - 6:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reached on (703) 308-2623. The fax number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is

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Art Unit: 3748


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(703) 308-0861.

DT
September 1, 2004



Diem Tran
Patent Examiner
Art unit 3748



THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700